



CITY OF DANBURY

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ZONING COMMISSION
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MINUTES MARCH 22, 2005

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The meeting was called to order by Chairman Jack Knapp Jr. at 7:35 PM.

Present were Theresa Buzaid, Christine Cuhsnick, Theodore Haddad Jr., Patrick Johnston, Richard P. Jowdy, Jack Knapp Jr., and Alternates Jean Anderson and Helen Hoffstaetter. Also present was Planning Director Dennis Elpern.

Absent were Donald Kennedy, Joseph Mooney, Lenny Silva and Alternate Ted Farah.

Chairman Knapp asked Mrs. Anderson to take Dr. Mooney's place and Ms. Hoffstaetter to take Mr. Kennedy's place for the items on tonight's agenda.

Mr. Johnston led the Commission in the Pledge of Allegiance.

Chairman Knapp said the February 8, 2005, February 22, 2005 & March 8, 2005 meetings were cancelled due to a lack of business for the agenda. Tonight they have received the minutes of November 23, 2004, December 14, 2004 Workshop, January 18, 2005 and January 25, 2005 meetings. They would table acceptance of these until the next meeting. He said all of the Commission members were sent the revised pages for their Zoning Regulations to reflect the Billboard/Sign Amendments and the Moratorium language. These amendments became effective February 11, 2005.

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PUBLIC HEARINGS:

Mr. Haddad excused himself and left the meeting as he is abstaining from both of the public hearings.

7:30 PM – Petition of Scuppo Rd, LLC, 1 Scuppo Rd. (F14124 & #F14073) for Change of Zone from RA-40 to RMF-4. (Application filed 1/25/05)

Chairman Knapp said this application was received in the Planning & Zoning Office on January 25, 2005 before the moratorium went into effect. Mrs. Cuhsnick read the legal notice. Chairman Knapp read the Planning Department Staff report. Mr. Johnston read the Planning Commission recommendation, which was negative. Chairman Knapp noted that the negative recommendation means this petition will need a 2/3 majority vote for approval.

Attorney Neil Marcus spoke in favor of this petition. He said the Staff Report does have a lot of information that is correct with the exception of the reference to the Plan of Conservation & Development. It is incorrect because there is no way they could get twenty units in here due to

the developmental constraints on the site. He said this Commission should not be looking at how many units this site can support, that is a Planning Commission issue. He said they will not get more than fourteen units in there at best. He showed them a map with all of the multi-family developments in the immediate area highlighted: Westville Commons, the Housing Authority, Penbrook Crossing, Racing Brook Meadows 1 & 2, Vita Village, and the proposed Samuel Court. He said the slope is not an issue. Mr. Johnston asked where they draw the line, where is the cutoff for the end of multi-family and the beginning of the single family. Attorney Marcus said as far as he is concerned the intersection of Scuppo Rd. and Westville Ave. is an appropriate cutoff. There were no other questions, so Chairman Knapp asked if there was anyone to speak in opposition to this. Several people came forward.

Steve Blake, said he lives in a single family home and agrees that no one in a single family home wants to be surrounded by multi family development. He said the City should consider imposing a moratorium on multi-family development so as to slow it down.

Ken Gucker, said he is here for the Padanaram Rd. petition, but is opposed to any further multi-family development, so he is speaking now too. He said his property is the same size as this one, so maybe he should re-zone it and put in condos. He said the grades on this property will require retaining walls the same as at Stetson Place, and that is something that is not very attractive to look at. He agreed that the question is where do we draw the line?

Romolo DeGrazia, 101 Padanaram Rd., said condominiums are like a cancer. Everyone who wants to make a quick buck in this town is building condominiums. This used to be a nice town where you could raise a family. Now the traffic is getting worse every day. Everywhere you go there are condominiums, it is time to draw the line. This proposal is unacceptable; there is no green space. He said he would be in favor of a moratorium on multi-family development.

Tom Pura, 43 East Gate Rd., said the Commission members really hit it on the head. Where does it stop? He said he was here in April of last year and spoke about quality of life issues. That was for another request to rezone a parcel for condominiums on Padanaram Rd. He said he moved here thirty years ago and Attorney Marcus was here then, too. He said unfortunately because Danbury has the sewage and water treatment plants here, everyone comes here to build condominiums. He said he was glad they imposed the moratorium, but questioned why it did not prohibit this petition. Mr. Elpern explained this petition was submitted before the moratorium went into effect.

Planning Director Dennis Elpern then said that Attorney Marcus was wrong to say that the site considerations were not this Commission's purview. In the Zoning Regulations, there is criteria for zone changes and the site considerations are specifically listed. He reminded the Commission not to count on them not building the maximum number of units because with a zone change petition, they must consider the maximum development the new zone would allow.

Attorney Marcus then spoke in rebuttal to the opposition's comments. He said it seems like most of the opposition seem to focus on determining where we draw the line. It seems that most of the multi-family development was done incrementally. He said he is just a country lawyer who grew up in this town and to suggest that condos made Danbury is untrue. He said it is appalling how big a need there is for real affordable housing units everywhere, not just here. He said this

Commission's charge is to look at the zoning and nothing else. He suggested that if they continue the public hearing, he will get traffic information and a tentative site plan. Although the Commission does not look at site plans with this type of petition, it will enable them to see that they will not get twenty units on this parcel. He said implementing the moratorium only made the developers speed up their applications so they could get them in before it became effective. He asked that they continue this hearing for 30 days to give him the chance to provide additional information. He said he does not disagree that we have a traffic problem in Danbury but the applicant shouldn't be penalized for a problem that he didn't create. All of the big developments created the traffic. The additional thirty days will give him time to get both housing and traffic information. Chairman Knapp reminded Attorney Marcus that this is not his first time before them with a zone change petition, meaning he should know they would want to see traffic information. Attorney Marcus said it was requested and usually once that is done, the Commission gives the applicant time to provide it. Mr. Johnston pointed out that it was the people who spoke in opposition who requested this information. Attorney Marcus said they are talking about two acres. Chairman Knapp said yes, but twenty additional units on the two acres. Attorney Marcus again said the number is units is not important at this point in time, the Commission has to decide if this property is suitable for multi-family development in general. He said he believes it is.

Chairman Knapp suggested someone make a motion so they could start discussion. Mrs. Cuhsnick made a motion to close the public hearing. Mr. Jowdy seconded the motion. Ms. Hoffstaetter said it comes down to whether any of this "additional information" will make a difference? Mr. Johnston said he does not think it is necessary to wait. There were no other comments. Chairman Knapp called a roll call vote and the motion to close the public hearing was passed unanimously with seven AYES. Chairman Knapp then suggested they table any further action on this matter since there are only seven members present to vote on it. He asked the secretary to contact the members who were not present this evening so they could listen to the tape.

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7:45 PM - Petition of NDT Development Group, 61, 63, 65 A & B Padanaram Rd. (G09090 & #G09091, #G09089, #G09126, #G09125), for Change of Zone from RA-40 to RMF 6. (Application filed 1/25/05)

Before the reading of any documents, Attorney Neil Marcus came forward and said the traffic study for this petition is not ready yet, so he asked that they just open this and continue it until the April 26, 2005 meeting. Mr. Johnston made the motion to open this and continue it until the April 26, 2005 meeting. Ms. Hoffstaetter seconded the motion and it was passed with six AYES (Mrs. Buzaid, Mr. Johnston, Mr. Jowdy, Chairman Knapp, Mrs. Anderson and Ms. Hoffstaetter) and one NAY (from Mrs. Cuhsnick).

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

- 1) ZBA Referral: #05-14: Robert J. Kaufman, 41 Padanaram Rd. (#H10140) Use Variance to Secs. 5.E.3.a , 5.E.4.a., 9.C.2.a. & b. and 11.B.2.c., to increase gross maximum floor area from 20,000 sq.ft. to 23,400 sq.ft., to increase maximum building height from 30 ft. to a maximum of 65 ft., all to permit the reconstruction and expansion of existing non-

conforming use which was damaged by fire. (CN-20 Zone) *ZBA Public hearing was opened 3/10/05 and continued until 3/24/05 pending receipt of both Zoning and Planning Commission recommendations. Planning Commission gave it a negative.*

Mr. Elpern explained that they were already non-conforming so right from the start, so anything they do will require a variance. This site was damaged by a fire and they are now trying to repair it. He said this is not actually an expansion in space but since the footprint will be changing, they need a variance. Some of what they are proposing to do will enhance the area. They are trying to clean up the site and make it look better as well as make it safer and better for the environment. They were under site plan review when it was discovered that they needed this variance, so they withdrew the site plan application until this is decided. There was some discussion as to what existed before the fire versus what they are proposing to do now. Mrs. Cuhsnick said the subcommittee did their inspections independently and then met briefly to discuss this. She said they agreed that this is a difficult situation because what they want to build is different than what was there. She added that although the changes will make it look better, they also don't want to give him carte blanche to do whatever he wants. She then made a motion to give a negative recommendation for the following reasons:

- Although they do not want to deprive the applicant of restoring his structure to its "pre-fire" condition, there is no hardship. The Zoning Commission recommends that the provisions of Sec. 9.C.2. of the Zoning Regulations be applied to this application so that the original height and total square footage of the building not be expanded beyond what was in existence before the fire.

The motion to give a negative recommendation was made by Mr. Johnston, seconded by Mrs. Cuhsnick and passed unanimously with six AYES (from Mrs. Buzaid, Mrs. Cuhsnick, Mr. Johnston, Mr. Jowdy, Ms. Hoffstaetter and Chairman Knapp). Mrs. Anderson abstained from the vote.

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Chairman Knapp reviewed the Correspondence, which consisted of sixteen Cease & Desist Orders. He then asked about the petition listed under For Reference Only, if it had anything to do with the five-hundred units being proposed for the downtown. Mr. Elpern explained that this Commission would only see this request to amend the height regulations. He briefly described what is being proposed for the site, because there is contaminated soil it would be extremely cost prohibitive to dig down. The alternative they have come up with is to cap it and build two levels of parking with seven stories of condos above them. He added that they would not all be the same types of units, there would be variations, even some with rooftop gardens. Everyone started asking questions and Mr. Elpern suggested they not discuss it any further this evening. In closing, he said that the Plan of Conservation & Development supports this kind of development in the downtown because it will make it vibrant and really bring the people out.

At 10:00 PM with no further business to discuss, Mr. Johnston made a motion to adjourn. Mr. Jowdy seconded the motion.